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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,679

04/16/2004

Don Edvalson

A2004017

8636

26643

7590

06/26/2008

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EXAMINER

JOHNSON, JOHNESE T

ART UNIT

PAPER NUMBER

2166

MAIL DATE

DELIVERY MODE

06/26/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/825,679	<b>Applicant(s)</b> EDVALSON ET AL.	
	<b>Examiner</b> Johnese Johnson	<b>Art Unit</b> 2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,6,8-11,13-19 and 44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6, 8-11,13-19 and 44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4-8-2008</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 8, 2008 has been entered.

### ***Remarks***

2. In response to the RCE filed on April 8, 2008, claims 1, 3, 5-11, 13-19 and 44 are pending in this application. Claims 20-43 are cancelled.
3. The rejections made under 35 USC 101 are maintained. The reasons why are given in the detailed explanation below.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3, 6-8, 9-11, 13, and 14-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-3, 6-8, 14-15 are directed to a file management system which is comprised of a file system and a controller for controlling access to data files in shared storage . According to applicants description, in paragraph [0022], line 2, a controller may be a module which is a set of program instructions and program instructions, *per se*, constitute non-statutory subject matter.

Claims 9-11 are directed to an allocator module which is simply a set of program instructions/ software module.

Claim 13 recites "...software for communicating..." which is just program instructions.

The content of these claims is directed to non-functional descriptive material (MPEP 2106.01 [R-5]). The content is not structurally and functionally interrelated to a computer-readable medium thereby rendering it incapable of producing a useful, concrete and tangible result and is therefore, non-statutory.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by (U.S. Pat. No. 5,946,685) issued to Cramer et al (hereafter Cramer).

Regarding claims 1 and 16, Cramer discloses:

A file management system (see paragraph [0045], lines 6-9), comprising:

a proxy file system for managing (wherein “for managing” is intended use recitation and should be amended as “to manage” for example) a plurality of proxy files , wherein the plurality of proxy files are associated with counterpart data files in a shared storage larger in size and remote from the proxy file system and essentially and include information for accessing (wherein “for accessing” is intended use recitation and should be amended to recite, “to access”, for example) the counterpart data files from the shared storage (see col. 3, lines 54-67 and col. 4, lines 1-10), including information indicating locations of the counterpart files on the shared storage (see col. 5, lines 30-40); and

a controller for controlling (wherein “for controlling” is intended use recitation and should be amended to recite, “to control”, for example) access by a plurality of clients to the counterpart data files in the shared storage using the proxy file system (see col. 3, lines 54-67 and col. 4, lines 1-10). (\*Note\* Intended use recitation does not carry any patentable weight).

Regarding claim 17, Cramer discloses:

wherein controlling access comprises providing the clients with access to the counterpart data files in the shared storage using the access information included in the proxy files (see col. 3, lines 54-67 and col. 4, lines 1-10).

Regarding claim 18, Cramer discloses:

wherein providing the clients with access to the counterpart data files comprises providing the clients with information indicating locations of the counterpart files on the shared storage (see col. 5, lines 30-40).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3, 5, 6, 8-11, 13-15, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over (U.S. Pat. No. 5,946,685) issued to Cramer et al (hereafter Cramer) in view of (US PG. Pub. No. 2003/0046369) issued to Sim et al. (hereafter Sim).

Regarding claims 3 and 19, Cramer discloses:

wherein controlling access to the counterpart data files comprises:  
retrieving from the proxy files the information for accessing the counterpart data files from the shared storage in response to the access attempts (see col. 3, lines 54-67, col. 4, lines 1-10, and col. 5, lines 30-40); and

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providing the clients with access to the counterpart data files in the shared storage

using the information retrieved from the proxy files (see col. 3, lines 54-

67, col. 4, lines 1-10, and col. 5, lines 30-40).

However, Cramer does not explicitly disclose:

recognizing attempts by the clients to access the counterpart data files in the shared storage;

Sim does disclose:

recognizing attempts by the clients to access the counterpart data files in the shared storage (see paragraph [0117] – recognizes requests);

It would have been obvious, at the time the invention was made, to have modified the teachings of Cramer by the teachings of Sim to provide access to files in storage and effectively deliver large payloads (see Sim, paragraph [0040]), because previous methods were too slow and time consuming (see Sim, paragraph [0004]).

Regarding claim 5, Cramer does not explicitly disclose:

wherein the proxy file system comprises a non-sharable file system running on a local disk coupled to the controller

However, Sim discloses:

wherein the proxy file system comprises a non-sharable file system running on a local disk coupled to the controller (see Sim paragraph [0044], line 17, and paragraph [0083]; wherein control unit may reside with vfcs).

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It would have been obvious, at the time the invention was made, to have modified the teachings of Cramer by the teachings of Sim to provide access to files in storage and effectively deliver large payloads (see Sim, paragraph [0040]), because previous methods were too slow and time consuming (see Sim, paragraph [0004]).

Regarding claim 6, Cramer does not explicitly disclose wherein the proxy file system comprises at least one module to facilitate at least one of the following functions: security, locking, file sharing, and change notifications.

However, Sim discloses:

wherein the proxy file system comprises at least one module to facilitate at least one of the following functions: security, locking, file sharing, and change notifications (see Sim paragraph [0170]; wherein NFS supports file sharing, and representation features, such as: file access and file and record locking).

It would have been obvious, at the time the invention was made, to have modified the teachings of Cramer by the teachings of Sim to provide access to files in storage and effectively deliver large payloads (see Sim, paragraph [0040]), because previous methods were too slow and time consuming (see Sim, paragraph [0004]).

Regarding claim 8, Cramer does not explicitly disclose:

wherein the controller comprises a server

However, Sim discloses:



wherein the controller comprises a server (see Sim paragraph [0204]; wherein the control unit is a database server).

It would have been obvious, at the time the invention was made, to have modified the teachings of Cramer by the teachings of Sim to provide access to files in storage and effectively deliver large payloads (see Sim, paragraph [0040]), because previous methods were too slow and time consuming (see Sim, paragraph [0004]).

Regarding claim 9, Cramer does not explicitly disclose

wherein the controller comprises:

an allocator module for allocating and de-allocating portions of the shared storage to the counterpart data files; and

a network interface module for facilitating communications with the plurality of clients.

However, Sim discloses:

wherein the controller comprises:

an allocator module for allocating and de-allocating portions of the shared storage to the

counterpart data files (see Sim paragraph [0176]; wherein the control unit has a storage management subsystem); and

a network interface module for facilitating communications with the plurality of clients

(see Sim paragraph [0083], lines 6-7; wherein the network manager facilitates communication).

It would have been obvious, at the time the invention was made, to have modified the teachings of Cramer by the teachings of Sim to provide access to files in

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storage and effectively deliver large payloads (see Sim, paragraph [0040]), because previous methods were too slow and time consuming (see Sim, paragraph [0004]).

Regarding claim 10, Cramer does not explicitly disclose:

wherein the allocator module comprises program code for managing a plurality of allocation units

However, Sim discloses:

wherein the allocator module comprises program code for managing a plurality of allocation units (see v paragraph [0176]; wherein the control unit has a storage management subsystem that allocates storage space and that software module is comprised of instructions or “program code”).

It would have been obvious, at the time the invention was made, to have modified the teachings of Cramer by the teachings of Sim to provide access to files in storage and effectively deliver large payloads (see Sim, paragraph [0040]), because previous methods were too slow and time consuming (see Sim, paragraph [0004]).

Regarding claim 11, Cramer, does not explicitly disclose:

wherein the allocation units indicate locations of portions of the shared storage allocated to information in the counterpart data files

However, Sim discloses:

wherein the allocation units indicate locations of portions of the shared storage allocated to information in the counterpart data files (see Sim paragraph [0085], lines 1-5; wherein

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the VFCS uses the block information to piece together the entire file; and, paragraph [0091], line 2; wherein the blocks are broken down into smaller units).

It would have been obvious, at the time the invention was made, to have modified the teachings of Cramer by the teachings of Sim to provide access to files in storage and effectively deliver large payloads (see Sim, paragraph [0040]), because previous methods were too slow and time consuming (see Sim, paragraph [0004]).

Regarding claim 13, Cramer does not explicitly disclose:

wherein the plurality of clients include software

for communicating with the controller and the shared storage

However, Sim discloses:

wherein the plurality of clients include software

for communicating with the controller and the shared storage (see Sim paragraph [0044], lines 15-19; wherein the application server is comprised of software).

Regarding claim 14, Cramer does not explicitly disclose:

The system of claim 1, further comprising a secondary controller configured to mirror the controller and replace the controller if the controller is disabled

However, Sim discloses:

The system of claim 1, further comprising a secondary controller configured to mirror the controller and replace the controller if the

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controller is disabled (see Sim paragraph [0147], lines 9-13).

It would have been obvious, at the time the invention was made, to have modified the teachings of Cramer by the teachings of Sim to provide access to files in storage and effectively deliver large payloads (see Sim, paragraph [0040]), because previous methods were too slow and time consuming (see Sim, paragraph [0004]).

Regarding claim 15, Cramer does not explicitly disclose:

The system of claim 14, further comprising a secondary proxy file system coupled to the secondary controller

However, Sim discloses:

The system of claim 14, further comprising a secondary proxy file system coupled to the secondary controller (see Sim paragraph [0083], line 16; wherein there are multiple distribution centers and each has a controller coupled to a proxy file system).

It would have been obvious, at the time the invention was made, to have modified the teachings of Cramer by the teachings of Sim to provide access to files in storage and effectively deliver large payloads (see Sim, paragraph [0040]), because previous methods were too slow and time consuming (see Sim, paragraph [0004]).

4. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over (U.S. Pat. No. 5,946,685) issued to Cramer et al (hereafter Cramer) in view of (US PG. Pub.

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No. 2003/0046369) issued to Sim et al. (hereafter Sim) and further in view of (US PG Pub. No. 2003/0061275) issued to Brown.

As to claim 44, Cramer and Sim do not explicitly disclose:

wherein the proxy file system dynamically updates the plurality of proxy files to reflect changes in the counterpart data files.

However, Brown discloses:

wherein the proxy file system dynamically updates the plurality of proxy files to reflect changes in the counterpart data files.

It would have been obvious, at the time the invention was made, to have modified the teachings of Cramer and Sim by the teachings of Brown to provide a centralized management of cookies in an Internet environment for a specific user and to devise an intermediary proxy machine having the ability to manipulate and control the cookies without passing them back to the client device (see Brown, paragraph [0011]).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 3, 5, 6, 8-11, 13-19 and 44 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnese Johnson whose telephone number is 571-270-1097. The examiner can normally be reached on 4/5/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. J./  
Examiner, Art Unit 2166

June 10, 2008  
JJ

/Hosain T Alam/  
Supervisory Patent Examiner, Art Unit 2166